IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

APPEAL FROM ORDER NO.875 OF 2005
IN
NOTICE OF MOTION NO.1554 OF 2005
IN
S.C. SUIT NO.1829 OF 2005

Surajnath Gendalal Chaturvedi & ors. Petitioners
vs.
B.L.Ruia (Multi Purpose)
High School & anr. Respondents

Mr.R.S.Deshpande with Mr.K.C.Mehta for the petitioners.

Mr.P.G.Lad for the respondents.

CORAM : B.H. MARLAPALLE,J.

DATED : 29th September 2005

P.C.

By the impugned order dated 2.9.2005, the learned Judge of the City Civil Court has disposed off the Notice of motion filed in S.C.Suit No.1829/2005 by appointing the Court Receiver to take charge of the suit premises i.e. room no.19 and the plaintiff as well as the defendants have been restrained from entering into the suit room and also from creating any third party interests in respect thereof.

2. The plaintiff is a Trust running an Educational Institution and in its premises the suit room is located. On the draft Notice of Motion, ad-interim relief was refused and, therefore, the appeal came to be filed before this Court which was disposed off by directing to hear and decide the Notice of Motion within a fixed time. The defendants were granted time to file reply to the Notice of Motion till 5.7.2005 and they

failed to do so.

3. On the basis of the documents submitted by the plaintiff, the trial Court has recorded the prima facie finding that the defendants made a forcibly entry in the suit room on 29.3.2005 after it was vacated and, therefore, the trial Court was satisfied that there was a case made out for appointment of the Court Receiver. While restraining both the parties from entering into the suit room, the trial Court has considered the submissions made by the plaintiff that the defendants are giving alternative premises. Defendant no.2 is the daughter, defendant no.3 is grand son and defendant no.4 is the nephew of the defendant no.1. The premises in Bhayandar were shown to be the ownership of the wife of the defendant no.1 and it was occupied by the defendants 2 and 4.

4. Under the circumstances, the impugned order does not call for any interference and the plaintiffs were successful in making out a prima facie case for appointment of Court Receiver.

5. The appeal is, therefore, dismissed in limine.

6. Civil Application does not survive.

(B.H.MARLAPALLE,J.)